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JOSEPH L. BENSON II, ESQ. Nevada Bar No. 7276 RYAN C. MORTIER, ESQ. Nevada Bar No. 8195 BENSON & BINGHAM 11441 Allerton Park Dr., Suite 100 Las Vegas, NV 89135 Alun J. Lum

CLERK OF THE COURT

#### DISTRICT COURT

#### CLARK COUNTY, NEVADA

KATHY CARTER; RICHARD CARTER,

Plaintiffs.

Case No. A-12-667255-C Dept. No. XIX

VS.

(702) 382-9797

Attorneys for Plaintiffs

TRUMP RUFFIN COMMERCIAL LLC; MICHAEL SABZEROU; DOES I through X, and ROE CORPORATIONS I through XX, inclusive,

COMPLAINT

Defendants.

COME NOW Plaintiffs, KATHY CARTER and RICHARD CARTER, by and through their attorneys of record, BENSON & BINGHAM, and for their causes of action against Defendants, and each of them, allege and complain as follows:

#### **JURISDICTION**

- 1. At all times mentioned herein, Plaintiffs were and are residents of the State of Virginia.
- 2. Upon information and belief, at all times mentioned herein, Defendant, Trump Ruffin Commercial LLC, was and is a Delaware limited-liability company duly authorized to conduct business in the State of Nevada.
- 3. Upon information and belief, at all times mentioned herein, Defendant, Michael Sabzerou, was and is a resident of the State of California.
- 4. That the true names and capacities, whether individual, corporate, associate or otherwise, of Defendants DOES I through X and/or ROE CORPORATIONS I through XX,

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inclusive, are unknown to Plaintiffs who therefore sue said Defendants by such fictitious names. Plaintiffs are informed, believe and thereupon allege that each of the Defendants designated herein as DOE I through X and/or ROE CORPORATIONS I through XX, inclusive, are any one of the following:

- (a) Parties responsible in some manner for the events and happenings herein referred to that caused injuries and damages proximately thereby to Plaintiffs as herein alleged;
- (b) Parties that are the agents, servants, employees and/or contractors of the Defendants, each of them acting within the course and scope of their agency, employment or contract;
- (c) Parties that own, lease, manage, operate, secure, inspect, repair, maintain and/or are responsible for the premises referred to hereinafter;
- (d) Parties that have assumed or retained the liabilities of any of the Defendants by virtue of an agreement, sale, transfer or otherwise.

Plaintiffs will ask leave of the Court to amend this Complaint to insert the true names and capacities of said Defendants, DOES I-X and ROE CORPORATIONS I-XX, inclusive, when the same have been ascertained by Plaintiffs, together with appropriate charging allegations, and to join said Defendants in this action.

#### **GENERAL ALLEGATIONS**

- 5. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 4 and incorporate the same by reference as though fully set forth herein.
- 6. At all times mentioned herein, particularly on or about October 27, 2010, Defendant, Trump Ruffin Commercial LLC, owned, operated and maintained premises commonly known as Trump International Hotel & Tower Las Vegas located at 2000 N. Fashion Show Dr., Las Vegas, NV 89109.
- 7. At all times mentioned herein, particularly on or about October 27, 2010, Defendant, Michael Sabzerou, owned and maintained condominium suite No. 5806 at the Trump International Hotel & Tower Las Vegas.

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8. It is unknown of the exact relationship between Defendant, Trump Ruffi
Commercial LLC, and Defendant, Michael Sabzerou, and what maintenance and/or special
agreements that pertain to the liability aspects of the condominium suite were entered into, an
further whom may have been responsible for the upkeep of said suite, including the washing
machine involved herein and associated plumbing.

- At all times mentioned herein, Plaintiffs were visiting Las Vegas and were staying at the condominium suite No. 5806 during their visit.
- 10. At all times mentioned herein, condominium suite No. 5806 contained a washing machine and said machine was leaking water when in operation.
- 11. At all times mentioned herein, Plaintiffs slipped on water that leaked from the washing machine and fell, thereby suffering injuries.

### FIRST CAUSE OF ACTION

#### (Negligence)

- 12. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 11 and incorporate the same by reference as though fully set forth herein.
- 13. At all times mentioned herein, Defendants failed to use reasonable care in management, operation and maintenance of the condominium suite, including inspection, maintenance and repair of the washing machine, thereby causing Plaintiffs injuries, and said Defendants acted and/or failed to act in a negligent, careless and reckless manner.
- 14. As a direct and proximate result of the negligence, carelessness and recklessness of the Defendants, Plaintiffs were injured in their health, strength and activity, sustained shock and injury to their person, all of which has caused and will continue to cause Plaintiffs pain and suffering.
- 15. As a direct and proximate result of the negligence, carelessness and recklessness of the Defendants, Plaintiffs have incurred emotional distress, pain and suffering, loss of enjoyment of life, lost wages, medical expenses and property damage, all to Plaintiffs' damages in an amount in excess of Ten Thousand Dollars.

16. As a direct and proximate result of the negligence, carelessness and recklessness of the Defendants, it has been necessary for Plaintiffs to retain the services of an attorney to prosecute this action, and Plaintiffs are entitled to recover reasonable attorneys' fees together with the costs of suit incurred herein.

#### **SECOND CAUSE OF ACTION**

## (Vicarious Liability/Respondeat Superior/Agency)

- 17. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 16 and incorporate the same by reference as though fully set forth herein.
- 18. At all times mentioned herein, Defendants employed, supervised and controlled personnel responsible for inspection, maintenance and repair of the condominium suite and appliances contained therein.
- 19. At all times mentioned herein, said personnel were the agents or assigns of the Defendants.
- 20. At all times mentioned herein, said personnel failed to use reasonable care in the inspection, maintenance and repair of the condominium suite, including the washing machine, while acting in the scope of their employment, agency or assignment.
- 21. At all times mentioned herein, Defendants failed to use reasonable care in the hire, employment, control and supervision of said personnel and Defendants thus acted in a negligent, careless and reckless manner.
- 22. As a direct and proximate result of the negligence, carelessness and recklessness of the Defendants, Plaintiffs were injured in their health, strength and activity, sustained shock and injury to their person, all of which has caused and will continue to cause Plaintiffs pain and suffering.
- 23. As a direct and proximate result of the negligence, carelessness and recklessness of the Defendants, Plaintiffs have incurred emotional distress, pain and suffering, loss of enjoyment of life, lost wages, medical expenses and property damage, all to Plaintiffs' damages in an amount in excess of Ten Thousand Dollars.

	24.	As a direct and proximate result of the negligence, carelessness and recklessness
of the	Defend	ants, it has been necessary for Plaintiffs to retain the services of an attorney to
prosec	ute this	action, and Plaintiffs are entitled to recover reasonable attorneys' fees together
with th	e costs	of suit incurred herein

WHEREFORE, Plaintiffs pray for relief against the Defendants, for each cause of action as follows:

- 1. For general damages in an amount in excess of \$10,000.00:
- 2. For special damages in an amount in excess of \$10,000.00;
- 3. For prejudgment interest;
- 4. For reasonable attorney's fees and costs of suit; and
- 5. For such other and further relief as the Court may deem just and proper.

DATED this 30 day of July, 2012.

JOSEPH L. BENSON II, ESQ.

Nevada Bar No. 7276

RYAN C. MORTIER, ESQ.

Nevada Bar No. 8195

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